

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROBERT P. HILL,

Plaintiff,

vs.

Civil Action No.

METROPOLITAN LIFE INSURANCE
COMPANY,

Defendant.

COMPLAINT

AND NOW, comes the Plaintiff, ROBERT P. HILL, by and through his attorney, Brian Patrick Bronson, Esquire, and the law firm of QuatriniRafferty, P.C., and files this Complaint in Civil Action in the Federal District Court for the Western District of Pennsylvania, stating as follows:

INTRODUCTION

NATURE OF THIS ACTION

1. This action is filed pursuant to the Employment Retirement Income Security Act of 1974, 29 U.S.C. §1001 et seq. (hereinafter referred to as "ERISA") and the Declaratory Judgment Act, 28 U.S.C. §§2201, 2202. Mr. Robert P. Hill (hereinafter "Plaintiff") is a participant in an employee welfare benefit plan (hereinafter referred to as "The Plan") which is administered pursuant to an insurance policy issued by Metropolitan Life Insurance Company. The Plan is governed by ERISA. Plaintiff is a beneficiary under

the Plan. This Complaint challenges the Plan's unlawful practice of failing to provide Plaintiff with the timely payment of Long-Term Disability benefits under the Plan. Specifically, Plaintiff is filing this action to enforce his rights under the Plan and for attorney fees, interest and costs as provided by ERISA.

JURISDICTION AND VENUE

2. This Court has Original Jurisdiction to hear this complaint and to adjudicate the claims herein pursuant to 28 U.S.C. §1331 and 29 U.S.C. §1132.

3. Venue is proper in this Court, as the Plan was administered in the Western District of Pennsylvania.

PARTIES

4. The Plaintiff, Robert P. Hill resides at 119 Syntron Drive, Homer City, Pennsylvania 15748, Indiana County.

5. The Defendant, Metropolitan Life Insurance Company, is the Claims Administrator of Long Term Disability claims and is located at 200 Park Avenue, New York, New York 10166.

6. Defendant administered employee benefits, mainly Long Term Disability benefits, under the Plan in accordance with the insurance policy issued to the Plan by the Claims Administrator.

STATEMENT OF FACTS

7. The Plaintiff, Robert P. Hill, was employed by NRG Energy, Inc. as a GUP Water Operator, a Medium Duty occupation, which required lifting up to 50 pounds and being around moving machinery.

8. Plaintiff was no longer able to continue in his position of employment with NRG Energy, Inc., due mainly to symptoms of depression and anxiety and went out of work on July 11, 2016. Plaintiff also suffered from Post Traumatic Stress Disorder, Panic Disorder, Irritable Bowel Syndrome, GERD, Insomnia, Sleep Apnea and Vertigo.

9. Plaintiff filed for and received Short Term Disability benefits under a separate employee benefit Plan, administered by the Defendant. Defendant, in that claim, determined that the Plaintiff could not return to his prior occupation during that time period.

10. At the expiration of his Short Term Disability Claim, the Plaintiff filed a claim for Long Term Disability benefits.

11. By letter dated March 7, 2017, the Defendant denied the Plaintiff's claim for Long Term Disability benefits under the Plan, effective January 7, 2017.

12. On or about August 9, 2017, the Plaintiff received a letter from his employer terminating his employment as of September 7, 2017, as he had not yet filed an appeal of his Long Term Disability denial or properly certified his absence from work.

13. By letter dated August 24, 2017, the Plaintiff, through legal counsel, filed a timely and responsive appeal to the March 7, 2017 denial. This appeal included medical records from Dr. Shirish Amin, Dr. Mary Ann Barnicle, Dr. Andrew Cash, Dr. Glen Getz, Dr. Joel Last and Ms. Kathleen Marusa, LCSW.

14. By letter dated December 14, 2017, the Defendant affirmed their decision to deny the Plaintiff's benefit claim for Long Term Disability benefits under the Plan.

15. On June 8, 2018, the Plaintiff received an unfavorable notice of decision on his claim for Social Security Disability benefits. In this decision, the Administrative Law Judge found that the Claimant/Plaintiff was unable to perform any past relevant work, including work as a general utility worker/hydroelectric plan maintainer, Dictionary of Occupation Titles number 952.687-010.

CAUSE OF ACTION

Employment Retirement Income Security Act of 1974, 29 U.S.C. §1001 et seq.

16. Paragraphs 1 through 15 are incorporated herein as if set forth at length.

17. Plaintiff has exhausted all administrative remedies and mandatory appeals as required by the Plan and ERISA 29 U.S.C. §1001 et seq.

18. At all times relevant to this action, the Plaintiff has been unable to perform the material duties of his own or regular occupation due to the diagnoses and symptoms related to: Depression and Anxiety, Post Traumatic Stress Disorder, Panic Disorder, Irritable Bowel Syndrome, GERD, Insomnia, Sleep Apnea and Vertigo.

19. The Defendant ignored pertinent medical evidence and failed to evaluate all of the evidence of record including the medical of Plaintiff's treating physicians.

20. The Defendant failed to properly conduct a vocational analysis of the Plaintiff's occupation; mainly, the Defendant failed to account for how even moderate limitations on attention, concentration and focus, as established by clinical

neuropsychological data, would or would not have, prevented the Plaintiff from working at or near dangerous machinery.

21. The Defendant did not conduct a full and fair review of the claim as required by ERISA.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs respectfully prays that the Court issue an Order:

- (1) Awarding, declaring or otherwise providing Plaintiff all relief to which Plaintiff is entitled under ERISA Section 502 Paragraph (a) 29 U.S.C. Section 1132(a);
- (2) Awarding pre and post judgment interests;
- (3) Awarding Plaintiff the costs of this action and reasonable attorneys fees;
- (4) Awarding such other relief as may be just and reasonable.

/s/ Brian Patrick Bronson, Esquire
Brian Patrick Bronson, Esquire (Pa #89035)
QuatriniRafferty, P.C.
550 East Pittsburgh Street
Greensburg, PA 15601
Phone: (724) 837-0080
Fax: (724) 837-1348
E-mail: bpb@qrlegal.com

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